

REMARKS

In view of the following remarks, Applicant respectfully requests consideration and allowance of the subject application.

Claim Rejections

Rejections Under 35 U.S.C. §103

Claims 1-38 were rejected under 35 U.S.C. §103(a) as being obvious anticipated U.S. Patent Application No. 2004/0198555 to Anderson et al. ("Anderson") in view of U.S. Patent No. 5,295,261 to Simonetti ("Simonetti"). Applicants traverse these rejections.

Initially, Applicant contends that the Action fails to establish a prima facie case of obviousness because the Action fails to make the necessary factual findings required under *Teleflex Inc. v. KSR Int'l, Co.* 550 U.S. ___, 82 USPQ 2d 1385 (2007), as interpreted by the Examination Guidelines for Determining Obviousness Under 35 U.S.C. §103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*, published October 10, 2007. For example, the Action lacks any factual findings with regard to on the level of ordinary skill in the art.

Further, the Action includes substantive errors with respect to the factual findings used to reject the claims. For example, independent claim 1 recites:

- receiving an order for a transaction at a record collection site;
- producing a record that represents the transaction at the record collection site;
- storing the record in a memory location at the record collection site;

- assigning a unique identifier to the record stored at the record collection site;
- entering the unique identifier in a hierarchical tree structure stored at the record collection site, wherein the unique identifier comprises information for accessing the record in the memory location, and wherein the tree structure comprises a plurality of branches connected by nodes; and
- sending the hierarchical tree structure to a central storage site.

The Action asserts Anderson assigning a unique identifier to the record stored at the record collection site. The Action cited paragraph [0047] to support the assertion. Paragraph [0047] reads as follows:

The EIDM interrogation means and EIDM provide a wireless communication link between the handheld device 15 and the exercise equipment. In the preferred embodiment, the EIDM interrogation means is an optical reader 30 such as a charge coupled device ("CCD") camera, or a barcode scanner. In other embodiments, the EIDM interrogation means may be a radio frequency identification device, hereinafter called a RFID, a magnetic decoder or a physical port connector. The EIDM is a ID tag 40, compatible with the EIDM interrogation means, such as a printed CCD identification label, a barcode, a radio transducer, or magnetic strip or a port connector capable of being detected or interrogated by the EIDM interrogation means.

Contrary to the assertion in the action, nothing in the text cited in paragraph [0047] discloses (nor even suggests) assigning a unique identifier to the record stored at the record collection site.

The Action correctly asserts that Anderson does not disclose entering the unique identifier in a hierarchical tree structure. The Action asserts this element is taught in Simonetti and cites Fig. 2C and column 8, lines 12-26 as support. The cited text reads as follows:

The final step of converting the database consists of replacing table 41 by a tree structure 50 as shown in FIG. 2(C). The nodes in tree structure 50 are divided into sets shown at 51-54. Each set of nodes corresponds to a column in table 41. The nodes in set 51 correspond to the state, those in set 52 correspond to the city, those in set 53 correspond to the street address, and those in set 54 correspond to the unique identifier

defined for each record in the original database. Each node in a given set is linked to a node in a set one level higher up in the hierarchy. Hence, there is no need to repeat the redundant data. For example, by traversing the tree from any given city node to the state node to which it is linked, one may ascertain the state in which the city is located.

Contrary to the assertion in the action, nothing in the text cited in Column 2, lines 47 to 55 discloses (nor even suggests) entering the unique identifier in a hierarchical tree structure. Thus, Anderson, alone or in combination with Simonetti, fails to disclose all the elements of independent claims 1, 17, 21 and 31, therefore the combination of Anderson and Simonetti can not yield the invention recited in independent claims 1, 17, 21 and 31.

In sum, the Action includes erroneous factual findings with respect to the scope and content of the prior art. Accordingly, the rejections are improper. Claims 2-16 depend ultimately from claim 1 and are allowable at least by virtue of this dependency.

Claim 17 was rejected on the same basis as claim 1. Applicant traverses the rejection of claim 17 based on the same argument applied to claim 1. Claims 18-20 depend ultimately from claim 17 and are allowable at least by virtue of this dependency.

Claim 21 was rejected on the same basis as claim 1. Applicant traverses the rejection of claim 21 based on the same argument applied to claim 1. Claims 22-30 depend ultimately from claim 21 and are allowable at least by virtue of this dependency.

Claim 31 was rejected on the same basis as claim 1. Applicant traverses the rejection of claim 31 based on the same argument applied to claim 1.

CONCLUSION

Applicant respectfully requests reconsideration and prompt issuance of the present application. Should any issue remain that prevents immediate issuance of the application, the Examiner is encouraged to contact the undersigned attorney to discuss the unresolved issue.

Respectfully Submitted,
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